

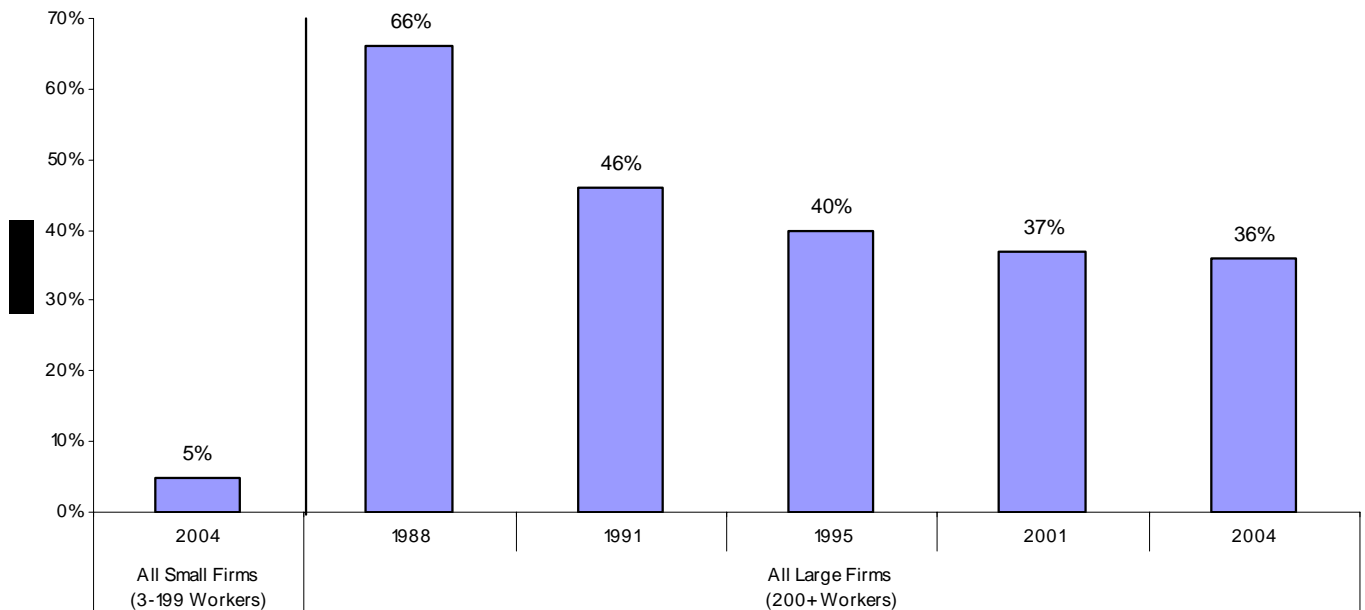
## ***RETIREE PLAN SPONSOR OPTIONS: MORE SECURE COVERAGE FOR RETIREES***

The Medicare Modernization Act (MMA) contains additional sources of support to help employers and unions continue to provide high quality drug coverage for their retirees. Employer and union plan sponsors and beneficiaries will have multiple options for enhancing retiree coverage through new resources available through Medicare, including a new retiree drug subsidy. Sponsors of employer and union plans that offer a prescription drug benefit as good as, or better than, Medicare's defined standard prescription drug benefit under Part D will be able to apply for the retiree drug subsidy, which is estimated to roughly average \$668 per beneficiary in 2006. We anticipate that this new funding will generally increase the assistance available to help retirees with their drug costs.

### **Retiree coverage has been in decline for many years**

Employment-based retiree health insurance has been an important source of drug coverage for many Medicare beneficiaries. However, for well over a decade, the availability and generosity of employment-based retiree health coverage has been eroding, particularly for future retirees. As prescription drug costs have risen, employers have been shifting more of those costs to their retirees, and many employers have ceased offering retiree health coverage altogether.

**Percentage of Firms Offering Retiree Health Benefits, 1988-2004**



Source: Kaiser/HRET Survey of Employer Sponsored Health Benefits: 2001, 2004; KPMG Survey of Employer-Sponsored Health Benefits: 1988, 1991, 1995. The denominator is all firms that offer health benefits to active workers

In 1988, 66 percent of large employers that offered health benefits to active workers also offered retiree health benefits. In 2004, only 36 percent of large employers offered them. During the same year, only about 5 percent of small firms that offered health benefits to active workers also offered retiree health benefits. The picture is even starker for future retirees, who have been disproportionately affected by most of these changes.

### **Medicare is helping employers continue to provide retiree health care coverage**

The MMA contains a new retiree drug subsidy that is designed to encourage employers and unions to continue providing high quality prescription drug coverage for their retirees. The retiree drug subsidy provides special tax-favored payments to qualified retiree prescription drug plans. Our policy decisions in implementing this program reflect our four objectives of maximizing the number of retirees benefiting from the retiree drug subsidy, avoiding windfalls, minimizing administrative burden and not exceeding budget estimates. The retiree drug subsidy program has highly flexible rules that permit employers and unions to continue providing drug coverage to their Medicare-eligible retirees at a lower cost, while retaining their current plan designs that are at least equivalent to the value of the defined standard Part D drug benefit, and using the retiree drug subsidy to reduce the cost of providing generous coverage.

Under the new law, employers and unions that offer drug coverage that is as good as, or better, than Medicare's defined standard prescription drug benefit under Part D will be eligible for a retiree drug subsidy. The retiree drug subsidy will be available to a broad range of private and government employers, including city and county governments and church plans. The value of the retiree subsidy will vary depending on the level of a sponsor's retiree drug costs. The subsidy pays 28 percent of the portion of each qualifying retiree's annual allowable drug costs that are attributable to their gross prescription drug costs between \$250 and \$5,000 in 2006. The retiree drug subsidy amounts are tax-free, which increases their value to plan sponsors that are subject to taxation. The subsidy is estimated to roughly average \$668 per beneficiary in 2006.

### **Employer and union plan sponsors and beneficiaries will have multiple options for enhancing retiree coverage through new resources available through Medicare.**

To maximize the number of Medicare-eligible retirees that continue to receive employment-based retiree prescription drug coverage while maximizing flexibility for plan sponsors, the final rule gives employers and unions several options for retaining and enhancing their retiree drug coverage. Sponsors' options include:

*Continuing to offer retiree prescription drug coverage that is eligible for the new Medicare retiree drug subsidy.* Plan sponsors can maintain their current generous benefit designs while receiving substantial assistance with retiree drug costs.

*Supplementing the new Medicare prescription drug benefit.* Plan sponsors also have the option of encouraging their retirees to enroll in Medicare's new prescription drug benefit under Part D, while opting to provide them with extra help. There are several ways that employer and union plan sponsors could supplement the standard Medicare drug benefit:

- They can set up their own separate supplemental plans and coordinate benefits with the Part D plans to provide extra help with cost sharing in much the same way that they currently supplement the standard Part A and Part B benefits;

- They can pay for enhanced coverage through a Part D plan to subsidize more of their retirees' cost-sharing and provide additional benefits. CMS plans to use its waiver authority to allow sponsors to make special arrangements with Part D plans for, or offer their own Part D plans to, their retirees. These waivers would allow employers to provide more flexible benefits and to limit enrollment to their retirees; and
- Regardless of whether they choose to provide additional coverage that supplements the standard Part D benefit, they can also provide extra help by assisting their retirees in paying for some or all of their Part D premiums.

It is important to remember that retirees who choose to continue with their employer or union-sponsored prescription drug coverage will always be able to enroll in the Medicare prescription drug program at a later date, free from any late enrollment penalties, as long as their employment-based drug coverage is at least as generous as the Medicare defined standard prescription drug benefit under Part D.

**CMS responded to valuable comments recommending ways to improve the implementation of the retiree drug subsidy and other options available to employers and unions.**

CMS received more than 80 comments in response to our proposed rule specifically relating to the retiree drug subsidy. These comments provided important suggestions on ways to improve the operation of the options available to employers to ensure that CMS meets our objectives of maximizing the number of retirees retaining employer or union sponsored drug coverage, avoiding windfalls, minimizing administrative burden and not exceeding budget estimates.

For example, CMS received numerous comments on the standard used to determine whether a retiree plan is at least as good as the defined standard prescription drug benefit under Part D, which is referred to as the actuarial equivalence standard. The vast majority of the comments, including those from both business groups and beneficiary advocacy groups, supported a two-prong test that looked at both the gross value of the retiree plan and the value of the plan taking into account the sponsor's financial contribution toward the cost of the coverage. Commenters suggested that this approach best serves CMS's stated goals of maximizing the number of retirees that retain their employer and union retiree drug coverage while not creating windfalls to the plan sponsors.

CMS carefully considered all the comments received and agreed with this two-pronged approach. The first prong, a gross value test, requires that the expected amount of paid claims under the retiree prescription drug coverage be at least equal to the expected amount of paid claims under the defined standard Medicare Part D benefit. CMS had presented several options in the proposed rule on how the net value of the standard Part D benefit might be calculated under a net value test. Commenters recommended an additional, innovative approach to determining the net value of the defined standard Part D benefit that would reflect the impact of having a plan sponsor offer supplemental coverage that reduced the retiree's out-of-pocket cost-sharing, thereby delaying the point at which the retiree would be eligible for the catastrophic benefit. This delay results in the relative value of the government subsidy for catastrophic coverage being lower for retirees whose employers/unions provide supplemental drug coverage that wraps around the standard Part D benefit.

We reviewed this proposed approach and agreed that it is the most appropriate way to balance the need to avoid windfalls while not unnecessarily limiting the number of plan sponsors that could qualify for the retiree subsidy. For this reason, we have determined that employer and union-based retiree drug coverage satisfies the net value standard if its actuarial value is at least equal to the net

value of defined standard prescription drug coverage under Part D reflecting the impact of having an employer's or union's coverage supplement the retiree's defined standard prescription drug coverage. Under these circumstances, the net value of the sponsor's retiree coverage would be determined by reducing the gross value of the retiree coverage by the expected retiree premiums. Similarly the net value of defined standard Part D coverage would be determined by reducing the gross value of the defined standard Part D coverage by the expected monthly beneficiary premiums.

**Medicare Part D is estimated to significantly lower costs for retiree plan sponsors to provide drug coverage.**

The implementation of Medicare Part D, including the Medicare retiree drug subsidy and the other opportunities it affords employers and unions for providing continued prescription drug assistance to their Medicare retirees, will result in combined aggregate payments by employers, unions, and Medicare for retiree drug coverage generally being greater – and frequently significantly greater – than they otherwise would have been without the enactment of the MMA. In 2006, we estimate that 9.8 million Medicare beneficiaries will receive drug coverage from an employer or union-sponsored retiree plan that is eligible for the retiree drug subsidy. About 1.7 million will receive enhanced benefits or wraparound coverage from their employer or union, or will enroll in standard Medicare Part D. This includes beneficiaries receiving additional premium or other financial assistance from their former employer or union and the many retirees previously enrolled in “access only” plans that do not subsidize drug coverage at all in contrast to the 75 percent subsidy for the new Part D benefit. The substantial additional resources that Medicare Part D provides can counteract some of the financial pressures that have been contributing to the trends toward erosion in retiree health benefits by making it more affordable for employers and unions to continue providing high quality retiree drug coverage. Regardless of whether employers seek the Medicare retiree drug subsidy or provide prescription drug assistance to retirees by providing enhanced Part D benefits, wraparound coverage, or help with paying Part D premiums, Medicare Part D is estimated to significantly lower the cost to plan sponsors of providing drug coverage, thus making the provision of that coverage much more affordable and therefore more likely.

**CMS will continue to work with employers and unions to clarify the policy and process of applying for the retiree drug subsidy or participating in Medicare Part D.**

CMS is planning to issue additional guidance on a range of issues for which commenters indicated additional direction would be helpful. For example, we plan to provide guidance on the actuarial equivalence standard and the process of attesting to actuarial equivalence, the application process, and the streamlined approach CMS plans to use in implementing the employer waivers.

We respect plan sponsors' need to have guidance on the retiree drug subsidy and other employer and union options as soon as possible due to the complexity and timing of the process. In addition to issuing this final rule and other guidance as quickly as possible, CMS will continue to conduct outreach to various groups to educate the stakeholders on the requirements for applying for the retiree drug subsidy and taking advantage of the other options that are available to employers and unions for continuing to provide assistance with their Medicare-eligible retirees' drug costs.